

CALFRESH (CF) PROGRAM

REQUEST FOR POLICY/REGULATION INTERPRETATION

INSTRUCTIONS: Complete items 1 - 10 on the form. Use a separate form for each policy interpretation request. If additional space is needed, please use the second page. Be sure to identify the additional discussion with the appropriate number and heading. Retain a copy of the CF 24 for your records.

- Questions from counties, including county Quality Control, must be submitted by the county CalFresh Coordinator and may be submitted directly to the CalFresh Policy analyst assigned responsibility for the county, with a copy directed to the appropriate CalFresh Policy unit manager.
- Questions from Administrative Law Judges may be submitted directly to the CalFresh Policy analyst assigned responsibility to the county where the hearing took place, with a copy of the form directed to the appropriate CalFresh Bureau unit manager.

1. RESPONSE NEEDED DUE TO: <input checked="" type="checkbox"/> Policy/Regulation Interpretation <input type="checkbox"/> QC <input type="checkbox"/> Fair Hearing <input type="checkbox"/> Other:	5. DATE OF REQUEST: 12/06/2016	NEED RESPONSE BY: 12/20/2016
2. REQUESTOR NAME:	6. COUNTY/ORGANIZATION: Orange County	
3. PHONE NO.:	7. SUBJECT: 1099 Income	
4. REGULATION CITE(S):	8. REFERENCES: (Include ACL/ACIN, court cases, etc. in references) NOTE: All requests must have a regulation cite(s) and/or a reference(s). CF 24 Self-Employment Expenses dated 5/3/14 (attached)	

9. QUESTION: (INCLUDE SCENARIO IF NEEDED FOR CLARITY):

Orange County was recently cited with a QC error by State QC regarding the budgeting of 1099 income as self-employment and the allowance of self-employment expenses. In this instance, the individual is employed as a receptionist at a Fitness Training Gym and is paid wages by the employer. On the pay-stub under Earnings, 1099 Misc is noted. No taxes are taken out as the individual is a undocumented non-citizen. Orange County was cited for not treating this income as self-employment although the individual stated she was not self-employed, did not consider herself self-employed, and did not incur expenses. When cited, Orange County was advised to treat the income as self-employment and to allow the 40% deduction for expenses even though no expenses were claimed.

Is all income marked as 1099 income mandated to be treated as self-employment income?

Is a 40% expense deduction mandated to be allowed for self-employed individuals even if he/she claims no expenses?

10. REQUESTOR'S PROPOSED ANSWER:

Is all income marked as 1099 income mandated to be treated as self-employment income? Self-employment shall be determined on a case-by-case basis. Factors to consider include the extent to which an individual has control over the scope of his/her daily work activities, the location and hours that the individual works, and whether they provide their own tools or equipment. In this case, the employee does not control scope of duties, work location/hours and does not provide tools or equipment.

Is a 40% expense deduction mandated for self-employed individuals even if he/she claims no expenses? No. Per a CF 24 dated 5/3/14 with the subject of Self-Employment Expenses, a similar question was asked; "Is all self-employment income given an expense either actual or standard?". The response was ".....the household chose to report their expenses of \$0 and the county would apply a deduction of \$0.....". In this case, the employee declares no expenses.

11. STATE POLICY RESPONSE (CFPB USE ONLY):

Question 1: From a policy perspective, income received on a 1099 does not always indicate self-employment. A client may be paid as an independent contractor but may not meet the definition of self-employment. If the client confirms they are not self-employed, the CWD may treat the income as regular earned income. In the scenario outlined above, the CWD should review the income information on the 1099 with the client and assess whether the client was self-employed.

Unfortunately, when reviewing the case for QC purposes, a 1099 indicates self-employment. If the CWD has determined that the income was not self-employment income based on client statement, this may cause the QC reviewer to consider the 1099 verification as "questionable". The reviewer will then contact the employer to determine whether the individual is self-employed. If the employer states that the client is self-employed, the reviewer will consider the income self-employment income and potentially cite the CWD with an error (continued on the next page)

FOR CDSS USE

DATE RECEIVED:	DATE RESPONDED TO COUNTY/ALJ: 9/21/17 ALB
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